



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,167	12/31/2003	Vikram A. Saleore	884.B75US1	5042
21186 7590 10/30/2008 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER				
NGUYEN, VAN KIM T				
ART UNIT		PAPER NUMBER		
2456				
MAIL DATE		DELIVERY MODE		
10/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/750,167

Applicant(s)

SALETORRE, VIKRAM A.

Examiner

Van Kim T. Nguyen

Art Unit

2456

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on December 31, 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date September 3, 2004.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is responsive to communications filed on November 16, 2008. Claims 18-23 have been cancelled; claims 1-7 and 15-17 remained pending in the case.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 16, 2008 has been entered.

Response to Arguments

3. Applicant's arguments with respect to claims 1-7 and 15-17 have been considered but are moot in view of the new grounds of rejection.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Ackaouy discloses software held in the memory and operable in the processor to service requests for content located in a memory of another server (e.g., if it is a cache miss, the proxy cache 115 will request the data from a server 110 and then provide the data to the requesting client 105; col. 4: lines 48-50). Since Morse is only relied upon to show that the other server is identified as a function of a table

Art Unit: 2456

hold content availability and location data of content (e.g., col. 7: lines 45-67), more than one server is not needed.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 7, 15-16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackaouy et al, hereinafter Ackaouy (US 7,171,469), in view of Morse et al (Morse/US 6,609,004), and further in view of Yamamoto et al (Yamamoto/US 6,467,026).

Regarding claims 1, 15-16 and 18-23, Ackaouy discloses a server (115) comprising:

a processor (unit comprising 162-169; col. 5: lines 28-39);

a memory (170, 171; col. 5: lines 50-60);

a system area network connection (161; col. 4: lines 17-19 and col. 5: lines 28-29);

a local area network connection (161; col. 4: lines 11-17 and col. 5: lines 28-29);

wherein the processor, memory, system area network connection, and local area network connection are operably interconnected within the server (see Figures 1A-B); and

load unique content into the memory from a storage location (e.g., proxy cache 115 caches active data set 140; col. 4: lines 65-67);

receive requests for content over the local area network (e.g., a client device 105 requests data; col. 4: line 40);

service requests for the content in memory (e.g., if it is a cache hit, the proxy cache 115 will transmit the request data to the requesting client 105; col. 4: lines 43-47);

service requests for content located in a memory of another server by obtaining the content over the system area network connection (e.g., if it is a cache miss, the proxy cache 115 will request the data from a server 110 and then provide the data to the requesting client 105; col. 4: lines 48-50); and

cache content used to service request for content located in the memory of the other server for use in servicing subsequent requests for identical content (e.g., the data from server 110 will be cached as an active dataset 140 in the proxy cache 115 and is available to other clients 105; col. 4: lines 50-52).

Ackaouy does not explicitly call for identifying the another server as a function of a table holding content availability and location data of content held in memory of one or more other servers.

Morse teaches identifying the another server as a function of a table holding content availability and location data of content held in memory of one or more other servers (Figure 4; col. 7: lines 43-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Morse's network content management in Ackaouy's system, motivated by the need to move a large amount of information to a large number of people at a relatively low cost.

However, Ackaouy-Morse does not explicitly call for the content to be located in a random access memory of another server prime with content.

Yamamoto teaches the content is located in a random access memory primed with content (content browsed by user can be stored in DVD-RAM disk 37; col. 7: lines 17-22 and 48-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ackaouy-Morse's system with Yamamoto's cache memory DVD-RAM disk in order to improve network performance, i.e., reducing load imposed on the network and shorten the time required to access the network.

Regarding claim 7, Ackaouy-Morse-Yamamoto also discloses the unique content is loaded into memory prior to the server being available to service content requests (e.g., frequently requested data set 140 is cached in proxy server 115; Ackaouy, col. 4: lines 65-67).

Regarding claim 17, Ackaouy-Morse-Yamamoto also discloses requests are received into the local area network on a router coupled to the Internet (e.g., load balancer 2220 or network switch 2405; Ackaouy, col. 21: lines 7-11 and 53-56).

6. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackaouy-Morse-Yamamoto, as applied to claim 1 above.

Ackaouy-Morse-Yamamoto does not explicitly call for the software operable on the processor to be a component of an operating system (OS) of the server, but since the main purpose of an OS is to organize and control hardware and software so that the computing devices behaving in a flexible but predictable way, it would have been obvious to one of ordinary skill in the art at the time the invention was made the software can be made to be a part of the OS in order to better monitor and control the computing devices.

Regarding claim 3, though Ackaouy-Morse-Yamamoto does not explicitly call for the software operable on the processor to be a driver; however, as it is well known in the art, a device/software driver is any computer program that allows other programs to interact with a computer hardware device, i.e., a driver is an interface for communicating with the device, or emulates a device. Since drivers are hardware-dependent and operating system specific, it would have been obvious to one of ordinary skill in the art at the time the invention was made the software operable on the processor may be modified to be a driver in order to allow interaction with a particular computer hardware device.

Regarding claim 4, Ackaouy-Morse-Yamamoto does not explicitly call for the software operable on the processor to be a middleware component; however, as it is well known in the art, middleware is software that mediates between an application and a network. It manages the interaction between disparate applications across the computing platforms. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made the software operable on the processor may be a middleware component in order to mediating between an application and a network.

7. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackaouy-Morse-Yamamoto, as applied to claim 1 above, in view of Yeh et al (Introduction to TCP/IP Offload Engine (TOE), Version 1.0, 10GEA Alliance, April 2002), hereinafter Yeh.

Ackaouy-Morse-Yamamoto does not explicitly call for the system area network a TCP Offload Engine (TOE) Gigabit Ethernet network.

Yeh teaches a 10 Gigabit Ethernet TCP Offload Engine enabled (TOE) network (pages 1-5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Yeh's TCP/IP offload engine in Ackaouy-Morse-Yamamoto's system in order to improve network performance, i.e., lowering server CPU utilization and increasing the data throughput.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 571-272-3073. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2456

Van Kim T. Nguyen

Examiner

Art Unit 2456

vkn

/Bunjod Jaroenchonwanit/

Supervisory Patent Examiner, Art Unit 2456